

1 Wednesday, 19 June, 1946

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3  
4 INTERNATIONAL MILITARY TRIBUNAL  
5 FOR THE FAR EAST  
6 Court House of the Tribunal  
7 War Ministry Building  
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,  
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, same as before.

14 For the Prosecution Section, same as before.

15 For the Defense Section, same as before.

16 - - -

17 (English to Japanese and Japanese  
18 to English interpretation was made by MORI,  
19 Tomio and SHIMANOUCHI, Toshiro, Sho  
20 Onodera acting as Monitor.)  
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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: All the accused are present  
4 except OKAWA and MATSUOKA, who appear by their  
5 respective counsel. Has any counsel any matter to  
6 mention to the Tribunal? Mr. Justice Mansfield.

7 MR. JUSTICE MANSFIELD: If the Tribunal  
8 please, at the close of the proceedings yesterday,  
9 Captain Kleiman made a statement that he assumed  
10 that the affidavits of the Japanese would be in  
11 Japanese. In fact, the affidavits of the Japanese  
12 are signed in the English version, and at the end  
13 of the affidavit there is a certificate to the  
14 effect that the translator certifies that he is  
15 fully conversant with the Japanese and English  
16 languages, and that he, this day, read the fore-  
17 going affidavit to the above named so-and-so in  
18 Japanese and, in so doing, truly and correctly trans-  
19 lated the contents thereof from English into  
20 Japanese; and that the said deponent stated to him  
21 that the contents of the said affidavit were the  
22 truth, and that he was willing to sign said affi-  
23 davit under oath.

24 THE PRESIDENT: Each affidavit is under two  
25 oaths; is that the position?

1           MR. JUSTICE MANSFIELD: No, there is only  
2 one oath taken. That is, after the affidavit has  
3 been taken into English and translated into Japanese,  
4 the deponent then takes the oath as to the truth-  
5 fulness of the affidavit and signs the English  
6 affidavit.

7           THE PRESIDENT: Although he cannot under-  
8 stand English?

9           MR. JUSTICE MANSFIELD: The affidavit is  
10 duly translated to him, and there is, of course, the  
11 safeguard in that the witness, while in the witness box,  
12 will be able to hear the affidavit translated to him.

13          THE PRESIDENT: The person who assures the  
14 Japanese deponent of the contents of the English  
15 document is not sworn, is that so?

16          MR. JUSTICE MANSFIELD: He certifies that  
17 the proceedings were duly understood by the deponent  
18 and that he truly translated the contents of the  
19 affidavit to the deponent before he swore to the  
20 contents.

21          THE PRESIDENT: The Japanese deponent  
22 swears on hearsay, and his informant is not him-  
23 self sworn.

24          MR. JUSTICE MANSFIELD: The position is  
25 as I have outlined it, and those facts were within

1 the knowledge of the defense yesterday when Captain  
2 Kleiman said he understood to the contrary.

3 THE PRESIDENT: This procedure was suggested  
4 to me by Captain Kleiman, and I thought it was so  
5 characterized as to be absurd, and I think it is.  
6 You recognize, Mr. Justice Mansfield, that we are  
7 making a big concession here, perhaps not without  
8 grave misgivings. This matter was debated among  
9 us very very seriously for a considerable time.  
10 You realize that the witness or the deponent probably,  
11 in most cases, said what he did say as the result  
12 of a number of leading questions which we would not  
13 allow if he were examined in court. For that reason,  
14 if we do admit these affidavits, in view of the  
15 peculiar circumstances attending them, we will, I  
16 venture to say on behalf of my colleagues, insist  
17 on a high standard of cross-examination, or of a  
18 high standard of answers in cross-examination.  
19 You see, the effect of it is that the deponent is  
20 allowed to give evidence in response to leading  
21 questions.

22 MR. JUSTICE MANSFIELD: The difficulty  
23 of putting a direct -- or having a direct question  
24 translated into Japanese is very great owing to the  
25 complexities of the language, and that has already,



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1 I think, been demonstrated in the court here.

2 THE PRESIDENT: You may proceed.

3 MR. HAMMACK: Mr. Marshal, will you call  
4 Professor OUCHI, please, the next witness.

5 MARSHAL OF THE COURT: Mr. President, the  
6 witness will now be sworn.

7 - - -

8 H Y O E O U C H I, called as a witness on behalf  
9 of the prosecution, being first duly sworn,  
10 testified as follows:

11 DIRECT EXAMINATION

12 BY MR. HAMMACK:

13 Q What is your name?

14 A My name is OUCHI, Hyoe.

15 Q I will show you, Mr. OUCHI, an affidavit and  
16 ask you to examine it and state whether or not you  
17 recognize it.

18 MR. WARREN: If the Tribunal please, we  
19 object to the paper that has been handed to the  
20 witness, which has been characterized as an affidavit.  
21 The copy served on us is not an affidavit. It is a  
22 statement only. We understood the ruling of the  
23 Court yesterday to be that an affidavit would be  
24 presented to the witness. Now, if the Tribunal  
25 please, what we have is not signed, naturally, but

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1     there is a place for the signature of a witness, or  
2     of this witness, and the only attestation attached  
3     thereto is this statement that it is sworn and sub-  
4     scribed to before the undersigned officer by the  
5     above-named OUCHI, Hyoe at the War Ministry Building,  
6     Tokyo, Japan, this blank day of June, 1946.

7             THE PRESIDENT: That is a mere formality  
8     which can be overcome if the proper course is followed  
9     here. I suggest that the affidavit be read to the  
10    Court in English and then to the witness in Japanese  
11    and he then be asked to swear to it again, if he can  
12    do so. Then you can proceed with your cross-examin-  
13    ation. In those circumstances the English version  
14    and the Japanese would be admitted tentatively.

15            MR. FURNESS: I would like to make a further  
16    objection to it, that the document which is being read  
17    does not even purport to be the statement of this  
18    witness; that the statement is in English, in a  
19    language which he does not understand.

20            THE PRESIDENT: That can be cleared up by  
21    his answers after he has heard the Japanese version  
22    following the English version.

23            MR. FURNESS: I object further that the  
24    translator's certificate is not under oath. I do  
25    not know who he is. I do not know what gives him

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1 the right to make a certificate not under oath.

2 THE PRESIDENT: The translation will be  
3 checked in Court by the Language Section. The  
4 objection is overruled.

5 Q Do you recognize the document which you hold  
6 in your hand, Professor OUCHI?

7 A I have seen it, and there is no mistake  
8 that it is mine.

9 Q You signed that document, did you, Professor?

10 A I did sign it.

11 Q Do you read English, Professor?

12 A I do.

13 Q Before signing that document, Professor,  
14 did you read it in English, and did you understand  
15 the language contained therein in English?

16 A That I did do.

17 Q Was the document also translated in your  
18 presence from English into Japanese by a translator,  
19 Doctor?

20 A Generally, yes.

21 Q And did you understand the Japanese trans-  
22 lation from the English, Doctor?

23 A I understood it.

24 Q Are the facts, as set forth in that affidavit,  
25 true, Dr. OUCHI?

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1           A    There is no mistake

2           MR. HAMMACK: At this time, may it please  
3 the Court, I offer the affidavit of OUCHI, Hyoe in  
4 evidence and ask that it be marked prosecution's  
5 next in order.

6                   (Whereupon, the document, above  
7 referred to, was marked prosecution's  
8 exhibit No. 130, for identification.)

9           CAPTAIN KLEIMAN: I object, may it please  
10 your Honor, on behalf of the defendant HIRANUMA, on  
11 the ground it is irrelevant to his case.

12           THE PRESIDENT: Objection noted. The  
13 document is admitted.

14                   (Whereupon, prosecution's exhibit  
15 No. 130 was received in evidence.)

16           MR. HAMMACK: The same being No. 130 for  
17 the record.

18                   (Reading:)

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1 "INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST  
2 "THE UNITED STATES OF AMERICA, et al. )  
3 - AGAINST - ) A F F I D A V I T  
4 ARAKI, SADA0, et al. )

5 "I, OUCHI, Hyoe, make oath and say as  
6 follows:

7 "I am presently a professor at the Imperial  
8 University of Tokyo, and in such capacity teach  
9 economics and public finance. I have been engaged  
10 as a professor teaching these subjects for the past  
11 27 years.

12 "I was educated in the schools of Japan,  
13 beginning with the elementary schools and finishing  
14 with the university, eventually receiving the degree  
15 Doctor of Law.

16 "As a student in the Japanese schools and  
17 later as a professor, I am familiar with the various  
18 subjects that were taught from the elementary  
19 schools up to and including the university.

20 "Military training and lectures, beginning  
21 in the elementary schools, were a part of all  
22 schools in Japan. Such training was first insti-  
23 tuted in the elementary, secondary and normal schools  
24 about 1886 and continued thereafter.

25 "Following the Japanese-Chinese War about



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1 1898 military training was conducted in the schools  
2 by regular Army officers, which system prevailed  
3 until about the time of the first World War.

4 After World War I, there was a liberal trend in  
5 the school system, and two or three years there-  
6 after little importance was placed upon military  
7 training and teachings. Beginning about 1922 mili-  
8 tary training and teaching was again instituted in  
9 the schools, these subjects increasingly being  
10 given more consideration in the schools until 1927  
11 when such training and teaching became compulsory  
12 in the secondary, normal and junior college grade  
13 schools. Such training, however, was not compul-  
14 sory at this time in the university.

15 "In 1927 the War Ministry demanded that  
16 a special course in military lectures be given in  
17 the University of Tokyo, this demand being refused,  
18 but again made later. On the second occasion demand  
19 was made that military lectures and military train-  
20 ing be given, as a result of which the university  
21 compromised by consenting that military lectures  
22 be given, these lectures being given by Army officers  
23 assigned from the War Ministry who became part of  
24 the faculty. At first the military lectures were  
25 not compulsory and most of the students did not

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1 attend them. For this reason a rule was put in  
2 effect by the military instructors that a roll  
3 call be taken. Further pressure was made upon the  
4 students by the rule that if students did not attend  
5 the lectures, following their graduation when they  
6 were called into Army service they did not receive  
7 credit for any military training while in school.  
8 This was important for the reason students who par-  
9 ticipated in military training and lectures while  
10 in college had one year's service only to do in the  
11 Army on completion of their education, while those  
12 who had not attended military lectures and training  
13 were required to do their full time of two or three  
14 year' military service.

15 "Upon the insistence of the War Ministry,  
16 military training became a part of all universities,  
17 including private universities, such training be-  
18 coming compulsory in 1938 when General ARAKI be-  
19 came Minister of Education. Previous to this time,  
20 in 1931, when General ARAKI was War Minister he  
21 had demanded that the Imperial University of Tokyo  
22 have military training and lectures as a part of its  
23 curriculum, which demand was refused by the univer-  
24 sity officials, thus postponing such training in  
25 the university a few years. Later General ARAKI

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1 as Minister of Education ordered compulsory military  
2 training and lectures in all universities.

3 "The military training and lectures were  
4 conducted in schools of all grades by regular  
5 Army officers, the officers conducting the courses  
6 making every effort by lectures, training and prop-  
7 aganda to inspire a militaristic and ultra-national-  
8 istic spirit in the students. It was taught by the  
9 military instructors that the Japanese were a su-  
10 perior race, that war was productive, and it was  
11 Japan's destiny to rule the Far East, and thereafter  
12 the whole world, and that the progress of the nation  
13 required the students to be prepared for aggressive  
14 warfare in the future to accomplish these ends.

15 "The foundation of the effort to inspire  
16 a militaristic and ultra-nationalistic spirit in the  
17 students was based upon a rescript of Emperor Meiji  
18 on education, published in 1890, which rescript  
19 provided that the most important duty of a  
20 subject was to the country and the Emperor, together  
21 with a rescript issued by the Emperor to military  
22 and naval officers, soldiers and sailors on their  
23 duties. These rescripts, together with the text-  
24 books, lectures, military training and teachings,  
25 were used by the military instructors to teach and

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1 inculcate in the students a belief in the great  
2 glory of Japan, and the duty of the Japanese to  
3 aid and further the Holy Mission of Japan to gain  
4 control of and rule the Far East, and thereafter  
5 the world, and that in the accomplishing of this  
6 Holy Mission the greatest glory of all for a Jap-  
7 anese was the privilege of dying in the service of  
8 the Emperor.

9 "That beginning in 1931 domination by the  
10 military of the universities and schools increasing-  
11 ly became more apparent, such domination having  
12 reached such proportions in 1937 following the China  
13 Incident that professors and teachers were required  
14 to cooperate fully and wholeheartedly in the pro-  
15 gram of inculcating in the students a fanatical  
16 militaristic and ultra-nationalistic spirit.  
17 Failure to cooperate fully in this program would  
18 bring punishment by dismissal from the school or  
19 imprisonment, all expressions of thought in favor  
20 of the ideals of peace or in opposition to the  
21 policy of preparation for aggressive warfare being  
22 rigidly suppressed in the schools, this suppression  
23 being directed to students as well as teachers and  
24 professors.

25 "In 1936 Professor YANIHARA, a Christian



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1 and a leader in the Peace Movement, wrote an article  
2 in the magazine Chu-Koron (Central Review) on peace  
3 and the ideals of the state. When Marquis KIDO  
4 became Minister of Education in 1937, he made de-  
5 mand that Professor YANIHARA be dismissed from the  
6 faculty of the Imperial University of Tokyo, and  
7 as a result of this demand by Marquis KIDO, Pro-  
8 fessor YANIHARA was requested by the officials  
9 of the University to submit his resignation, which  
10 he did.

11 "In 1937, three professors from Tokyo  
12 Imperial University, three from Hosei University,  
13 one from Tohoku, some assistant professors and  
14 myself were discharged, suspected of being sym-  
15 pathetic to peace ideals. Following the discharge  
16 of these professors and assistant professors, all  
17 were arrested by the police, charged under the  
18 Public Peace Law of **suspicion** of being in op-  
19 position to the political structure of the Empire  
20 of Japan. I was arrested by the police on this  
21 charge and spent 11 months in the police station  
22 where I was questioned in relation to this charge  
23 from time to time by police officers, later being  
24 sent to another jail to await trial, where I spent  
25 seven more months. I was then tried before the



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Preparatory Court and as they had no evidence against me I was conditionally released as a suspect. I was again tried in 1940 by a higher court where I was found not guilty. Following my trial in the higher court and the finding of not guilty, I made every effort to be restored to my position as a professor at the university but was unsuccessful. In October 1945, the war then being over, I was requested to return and resume my professorship, which I did.

"As an educator in the universities for the past 27 years and from my own personal experience as a student in the various grade schools in Japan, it is my opinion that the military training, lectures and teaching given to students in all grade schools and universities had the effect of creating in the students a militaristic and ultra-nationalistic spirit, a belief that the Japanese as a race were superior to all other peoples, glorification of war, that wars were productive and necessary for the future welfare of Japan, and had the effect of preparing the students for future wars of aggression."

Signed "Hyoe OUCHI."

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1           MR. HAMMACK (continuing): You may cross-  
2 examine, gentlemen. No further questions of this  
3 witness.  
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1 MR. HOZUMI: If the Court please, I am here  
2 representing defendants KIDO and TOGO. I would like  
3 to have a cross-examination on the affidavit.

## CROSS EXAMINATION

BY MR. HOZUMI:

4  
5 Q It is written that you are a holder of the  
6 degree of Doctor of Laws. Is that true?

7  
8 A That is a mistake in translation. I am  
9 Bachelor of Laws.

10 Q You are not a Doctor?

11 A I am not.

12 Q In 1937, before you resigned from the uni-  
13 versity, is it true that you specialized in the study  
14 of Marx and Engels and other utilitarian philosophy?

15 A Of course I did so.

16 Q Then, the witness, rather than making a  
17 study of such subjects as American capitalism, tended  
18 toward materialistic and communistic thought?

19 A I cannot grasp the full significance of  
20 your question.

21 Q Did the witness have any sympathy toward  
22 such subjects as Soviet communism?

23 A I did not hold any particular sympathy to-  
24 ward such an ideal.

25 Q On what ground was the witness accused as

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1 a criminal defendant?

2 THE PRESIDENT: That question cannot be put.  
3 You must cross-examine him on his affidavit. The  
4 witness is not a prosecutor.

5 MR. WARREN: If the Tribunal please, the  
6 affidavit contains a statement of this witness that  
7 he was arrested and was prosecuted. The translation  
8 may be a little bad, but he was asking him for what  
9 reason was he prosecuted, based upon his affidavit,  
10 sir..

11 THE PRESIDENT: I understood him to be asked  
12 on what ground he made an accusation. I may have  
13 misunderstood the question. He may be examined, of  
14 course, on his affidavit. I have no desire to re-  
15 strict cross-examination on that.

16 MR. HOZUMI: I shall stick to the affidavit  
17 and ask questions within the limits of that affidavit.

18 Q Will the witness tell us on what grounds,  
19 for what reasons, this criminal case came up?

20 THE PRESIDENT: He is referring, I take it,  
21 to the prosecution of the witness.

22 MR. HAMMACK: That is correct, may it please  
23 your Honor. The affidavit mentions his arrest.

24 THE PRESIDENT: Hence my misapprehension  
25 previously.



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1 THE WITNESS: May I answer?

2 MR. HOZUMI: Please.

3 A Legally speaking, it was for violation of  
4 the Peace Preservation Law. That violation -- the  
5 question of that violation was centered around on the  
6 books and essays which I wrote.

7 Q What kind of books and essays did you write?

8 A I wrote many essays and many books on such  
9 topics; but is it necessary for me to tell you every-  
10 thing about these writings of mine?

11 Q Will you mention just those which were  
12 questionable at that time?

13 A There were several essays and several books  
14 on such topics.

15 Q To simplify the answer, may I put the  
16 question this way: What kind of thought became a  
17 problem at that time?

18 A Generally speaking, they were on daily top-  
19 ics and political topics which were discussed in those  
20 days.

21 THE MONITOR: Correction: It was a criti-  
22 cism against the events in Japan and on world events  
23 from the standpoint of liberalism.

24 Q Was the witness acquainted with such pro-  
25 fessors as YANAIHARA, TAKAGI, YOKOTA, TANAKA Kotaro?



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1 A Yes, I know them very well.

2 Q These men were also viewed as liberals; but  
3 in connection with these men, expellation from the  
4 university was not a problem at the time?

5 A As a matter of fact, Mr. YANAIHARA was  
6 about to be expelled on such ground. And as for  
7 Mr. TANAKA and others, they were looked upon by the  
8 general public as being sympathizers of liberalism.

9 THE MONITOR: Correction: As a matter of  
10 fact, Mr. YANAIHARA was about to be expelled. However,  
11 as stated in the affidavit, he himself resigned.

12 Q YANAIHARA was expelled from the university  
13 not for the reasons stated by the witness, as I under-  
14 stand. It was on grounds of an article written in a  
15 religious magazine of which he was in charge, on a  
16 question on passages which were considered as lese  
17 majesty.

18 MR. HAMMACK: To which I object, may it  
19 please your Honor, on the ground it is not a question.

20 THE PRESIDENT: It is in the form of a  
21 statement, but I take it he put it to the witness:  
22 that was the cause of the dismissal. He should put  
23 everything in question form.

24 THE WITNESS: May I answer to that question?

25 MR. HOZUMI: Yes.

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1           A    Considering the reason for the dismissal of  
2 Mr. YANAIHARA, it is said that the question centered  
3 around a certain essay which he published, contributed  
4 to the magazine called "Chu-Koron." The contents of  
5 this essay, which was entitled "War and the National  
6 Ideals," was such that Mr. YANAIHARA was looked upon  
7 as being a pacifist.

8           Now this, I believe, was the real reason  
9 for which he was dismissed from his position.

10           THE MONITOR: Correction: The question came  
11 up what to do about Mr. YANAIHARA. Then Marquis KIDO,  
12 then Minister of Education, decided that this essay  
13 in the religious magazine was probably the most ab-  
14 horrent of all these questions. and, therefore, to  
15 use that as an excuse to advise him to resign. How-  
16 ever, to my belief, that was not the only reason; nor  
17 and, in fact, I think the main reason was that it  
18 was because Mr. YANAIHARA was a liberal.

19           Q    In the affidavit it is said, regarding the  
20 present question, that KIDO, Minister of Education,  
21 demanded the resignation of YANAIHARA. How and by  
22 what means did the witness learn that his resignation  
23 was demanded?

24           A    At that time the matter was referred to me  
25 by Dr. NAGAYO, President of the Tokyo Imperial

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1 University. According to Dr. NAGAYO's explanation,  
2 the dismissal was being made on that ground.

3 THE MONITOR: Correction and addition, here:

4 Therefore, after Dr. NAGAYO explained to me,  
5 he asked me to advise YANAIHARA to resign.

6 Q Regarding YANAIHARA's resignation, isn't it  
7 so that before his resignation was submitted, a meet-  
8 ing of the faculty of the university had been held,  
9 and the matter had been practically decided there?

10 A At that time, there were discussions among  
11 the faculty of the university; but at that particular  
12 moment, Dr. NAGAYO had not yet made up his mind, and  
13 no resolutions were taken.

14 Q I believe that Dr. NAGAYO was the first to  
15 ask Professor YANAIHARA to quit; is that so?

16 A As a man responsible for making a decision,  
17 Dr. NAGAYO was then put in a very awkward position.  
18 On the one hand, he had to take into consideration  
19 the opinion of the faculty members, and on the other  
20 hand he had to refer the matter to the Minister of  
21 Education.

22 Q Is the witness directly aware of the fact  
23 that Dr. NAGAYO consulted the Minister of Education?

24 A I know it very well. At that time Dr.  
25 NAGAYO told me about these things in detail.



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1 Q Regarding Professor YANAIHARA's resignation,  
2 I wish to ask regarding the procedure in which he re-  
3 signed. Did he resign after submitting a letter of  
4 resignation, or was he forced to resign without sub-  
5 mitting such resignation?

6 A In view of the delicacy of the situation at  
7 that time, he resigned after we, as friends, gave  
8 him certain advice; he voluntarily resigned.

9 Q As a friend, did you advise Professor  
10 YANAIHARA to resign?

11 A Yes; I was not against such an advice.

12 THE MONITOR: Correction: I approved or I  
13 agreed with that decision.

14 Q Then there is no direct evidence that  
15 Minister of Education KIDO directly prevailed upon  
16 YANAIHARA to resign?

17 THE MONITOR: Correction: Demanded.

18 A No.

19 MR. HOZUMI: Thank you.  
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1 MR. McMANUS: Mr. President and Members of  
2 the Tribunal, at this time, Mr. President, I would  
3 like to object, or have my objection noted, to the  
4 opinions and conclusions that are contained in the  
5 affidavit of this witness. They are not facts, and  
6 I should like my objection noted to those opinions  
7 and conclusions.

8 THE PRESIDENT: The objection is noted, but  
9 overruled.

10 May we have your name?

11 MR. McMANUS: I beg your pardon.

12 THE PRESIDENT: What is your name?

13 MR. McMANUS: My name is McManus, Mr. Presi-  
14 dent, and I am co-counsel with Mr. SUGAWARA, repre-  
15 senting the defendant, General ARAKI.

16 CROSS-EXAMINATION

17 BY MR. McMANUS:

18 Q Mr. OUCHI, could you tell me, please, how  
19 many interviews you had before signing the prosecu-  
20 tion exhibit which purports to be an affidavit by  
21 you?

22 THE PRESIDENT: That question was disallowed  
23 yesterday; but, since there has been no examination  
24 in chief in court, I think we should allow it today.

25 A You mean, is it how many times that I had



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1       seen?

2           Q   Yes.

3           A   I don't remember exactly, but I think it  
4       was three times.

5           Q   On the occasions of these interviews, approxi-  
6       mately how many people were present at each one?

7           A   The interrogator, one, and others accompany-  
8       ing him, including the interpreter -- two or three.

9           Q   Where were these interviews conducted?

10          A   I think it was room 315 of the War Ministry  
11       Building.

12           THE PRESIDENT: I remind you again, Mr. Mc-  
13       Manus, as I reminded other counsel, that we are not  
14       a jury and that examination or cross-examination at  
15       any length along these lines will not be helpful.

16           Whatever time we saved by admitting these  
17       affidavits will be lost by allowing this type of  
18       cross-examination. You can ask him, if you wish,  
19       whether any of his replies in his affidavit were  
20       prompted by persons around him at the time. The  
21       only thing that matters, of course, is the pressure  
22       brought to bear upon him when making his affidavit,  
23       if there was any, and the extent of the prompting  
24       he got, and you can cover that in a few questions.

25           MR. McMANUS: I am endeavoring to.

OUCHI

CROSS

1 Q Were you ever accompanied by any friends or  
2 acquaintances to these interviews?

3 A I went alone.

4 Q Did you ever discuss the substance of your  
5 statement with any of your friends or acquaintances  
6 before attending these interviews?

7 A No.

8 Q Did you ever discuss the substance of your  
9 statement to either Mr. MATSUHASHI or Mr. OGAWA?

10 A I do not know these men -- MATSUHASHI and  
11 OGAWA.

12 Q Were these statements given by you your own  
13 answers, and not supplied by any friends or ac-  
14 quaintances, or anyone at all?

15 A It is so.

16 Q Mr. OUCHI, I note that you state that about  
17 in the year 1922 military training was again resumed  
18 in the schools. Can you tell me what branch of the  
19 government was instrumental in reestablishing this  
20 policy?

21 A I do not recall the details, but it is  
22 generally considered that it was decided after con-  
23 sultation between the Ministry of War and the Minis-  
24 try of Education.

25 Q Can you tell me what branch of the government

OUCHI

CROSS

1 was responsible for establishing the compulsory  
2 training in secondary, normal, and junior grade  
3 schools in 1927?

4 A That, too, I am not aware of accurately,  
5 but speaking from general knowledge, I should think  
6 it was the Ministry of Education.

7 Q Do you know, of your own knowledge, whether  
8 or not during these years 1922 and 1927, any other  
9 Asiatic countries were maintaining or building up  
10 a strong military system?

11 MR. HAMMACK: I object to that phrase,  
12 your Honor, on the ground that it is attempted cross-  
13 examination of the witness on a subject on which he  
14 has not been qualified of having any knowledge, and  
15 it is therefore his opinion and conclusion, and  
16 therefore beyond the scope of cross-examination.

17 THE PRESIDENT: I do not suppose that he  
18 should be expected to have a knowledge of those  
19 matters, but you can comment on that later. The  
20 answer that you want from him you had better get  
21 from one of your own witnesses.

22 A I have no special knowledge on that subject.

23 Q Do you know General ARAKI?

24 A I know him by photograph.

25 Q Did you ever meet him in 1922 or 1927?

OUCHI

CROSS

1 A I have never seen him, except in pictures.

2 Q Do you know what position he held in govern-  
3 ment service during those years?

4 A All I know, he was an important figure in  
5 the war office.

6 Q Do you know exactly what position he held?

7 A I don't remember exactly, but I don't think  
8 he was, at that time, Minister of War.

9 Q Do you know whether or not he was Minister  
10 of Education?

11 A I think it was in 1938 that he became Minis-  
12 ter of Education.

13 Q Then, I take it, you state that in 1922 and  
14 1927 you know that General ARAKI was not Minister of  
15 War and not Minister of Education, is that so?

16 THE PRESIDENT: General ARAKI's record is  
17 already before the Court.

18 A I don't think he was either.

19 Q Now you mentioned, Mr. OUCHI, that in 1931  
20 General ARAKI as War Minister demanded military  
21 lectures at the Imperial University. When the  
22 University refused, was anything further done about  
23 this situation?

24 THE INTERPRETER: Was it 1931?

25 MR. McMANUS: 1931.



OUCHI

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1           A I think you will find it was the 6th Year of  
2 Showa. I don't think I have said anything about  
3 what position ARAKI held in 1931, nor what he de-  
4 manded of the University by virtue of the position  
5 he held.

6           Q You state now, Mr. OUCHI, that you did not  
7 say anything concerning General ARAKI in 1931, while  
8 he was War Minister?

9           A I think it was in 1933, when ARAKI was War  
10 Minister, that through the Ministry of Education he  
11 asked that military training in the University be  
12 intensified through an increase in the military  
13 instruction personnel. This representation was  
14 flatly refused by the then President, ONOZUKA, say-  
15 ing that this demand was not in accordance with the  
16 former agreements between the University and the  
17 Ministry of Education.

18           THE PRESIDENT: We will recess now for  
19 fifteen minutes.

20           (Whereupon, at 1049, a recess was  
21 taken until 1105. At this point Hidekazu  
22 Hayashi replaced Sho Onodera as Monitor,  
23 after which the proceedings were resumed  
24 as follows:)  
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1 THE MARSHAL: The Tribunal is now resumed.

2 THE PRESIDENT: Mr. McManus.

3 BY MR. McMANUS (Continuing):

4 Q Mr. OUCHI, just before recess you stated  
5 that you did not recollect making any statement con-  
6 cerning General ARAKI in 1931. Now, did you or did  
7 you not make such a statement?

8 A I did not make any statement regarding  
9 General ARAKI in 1931.

10 Q You stated this morning that this affidavit  
11 was true and correct and that everything was true  
12 therein. Do you still maintain that thought?

13 A I do.

14 MR. McMANUS: If the Court will bear with me,  
15 may I read a short paragraph from this statement?

16 THE PRESIDENT: You may put it to him, yes.

17 Q I ask you whether or not, Mr. OUCHI, you  
18 made this statement to the prosecutor when you were  
19 interviewed: "Upon the insistence of the War Ministry,  
20 military training became a part of all universities,  
21 including private universities, such training becoming  
22 compulsory in 1938 when General ARAKI became Minister  
23 of Education. Previous to this time, in 1931, when  
24 General ARAKI was War Minister he had demanded that  
25 the Imperial University of Tokyo have military

OUCHI

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1 training and lectures as a part of its curriculum,  
2 which demand was refused by the university officials,  
3 thus postponing such training in the university a  
4 few years. Later General ARAKI as Minister of  
5 Education ordered compulsory military training and  
6 lectures in all universities." Did you make that  
7 statement?

8 A I said as read.

9 Q Well, you just told me that you made no  
10 statement concerning General ARAKI in 1931. Now,  
11 which is correct?

12 A May I have the date -- the year 1931 repeated?  
13 I do not understand the connection between that and  
14 the 6th Year of Showa.

15 Q Does the witness want me to repeat the  
16 excerpt that I read from this document? Is that his  
17 request?

18 THE PRESIDENT: There is no need to read it  
19 again.

20 MR. McMANUS: I beg your pardon, Mr. President.

21 THE PRESIDENT: I think you are at cross  
22 purposes somehow.

23 Q Do you say now that the statement as read  
24 is the truth?

25 A The date is not clear, but the facts are clear.

OUCHI

CROSS

1 Q Well, after General ARAKI requested the  
2 Tokyo Imperial University to install military train-  
3 ing, for the next several years was any military  
4 training installed in Tokyo University?

5 A It was carried out.

6 Q When?

7 A Military training as a lecture was intro-  
8 duced in the University in the year 1925. It was  
9 introduced formally as military training in the  
10 year 1939. There were two types of military train-  
11 ing.

12 Q So the military training demanded by  
13 General ARAKI in 1931 was not carried out until  
14 1939, is that correct?

15 A Military training using guns or rifles  
16 was not compulsory until 1939. However, military  
17 training as a lecture has been carried out since 1925.

18 Q What type of training was requested by  
19 General ARAKI in 1931?

20 A I am not fully aware of the contents of  
21 the matter demanded by ARAKI, but military training  
22 as carried out in the University was such that, in-  
23 stead of using guns, the training was conducted in  
24 lecture rooms in the form of lectures on such subjects  
25 as the History of War, Tactics, and also hours of such



OUCHI

CROSS

1 lectures were increased.

2 Q What type of training was refused by Tokyo  
3 Imperial University in 1931?

4 A Military training using rifles was rejected,  
5 and also the assignment of an increased number of  
6 officers was also rejected.

7 Q Now, after 1931, was General ARAKI -- or did  
8 General ARAKI continue as War Minister for a number of  
9 years?

10 A I do not fully recall the exact period, as  
11 I said before; but, insofar as the present problem is  
12 concerned, I recall that the University rejected the  
13 demand, not in 1931 but in 1933.

14 Q Do you know whether or not, while General  
15 ARAKI was still War Minister after this period, any  
16 other request was made by him to have this military  
17 training?

18 A The matter does not have any connection with  
19 War Minister ARAKI, but it is a fact that the War  
20 Ministry through the Education Ministry demanded the  
21 increase in hours for military training.

22 Q When?

23 A I do not know the accurate dates, but it was  
24 done from time to time.

25 THE MONITOR: Correction: "frequently."

OUCHI

CROSS

1 Q Now, in 1938, Mr. OUCHI, was this military  
2 training set and formulated by the War Ministry?

3 A I think it was formulated by the Education  
4 Ministry after the demand was presented by the  
5 Ministry of War.

6 Q So, do I understand you then to mean that the  
7 Minister of Education merely carried out the dictates  
8 of the War Ministry in formulating this military  
9 training program?

10 A Formally it is not so; but, as a matter of  
11 practice, it is so to a very great extent.

12 Q Well, was it so in 1938?

13 A Military training became compulsory from  
14 the 14th Year of Showa, or 1939.

15 Q I note also, Mr. OUCHI, that you state that  
16 textbooks and lectures were used by the military in-  
17 structors to inculcate in students a desire to gain  
18 control of the Far East and thereafter the world.  
19 Is this your own opinion?

20 A It is not -- they are not my views, but the  
21 statement is made on the basis of the facts which  
22 were brought to my attention by my students.

23 Q Did you ever attend any of these lectures?

24 A I have looked into the lecture rooms, but I  
25 have myself never heard a lecture.

OUCHI

CROSS

1           Q   Then I understand, is it so, that you base  
2 your opinion solely on the statements of students  
3 who have attended these lectures?

4           A   It is not so. Considering the thought which  
5 prevailed at that time in the Japanese thought world  
6 at that time, I should say that the views which were  
7 entertained by the so-called militarists, their words  
8 were conveyed in these lectures to the students.

9           Q   And your knowledge of that is being told by  
10 the said students, is that correct?

11          A   It is from the students that I directly  
12 heard the contents of the lectures.

13          Q   Did any students in these words ever tell  
14 you the theory which you now possess, that they were  
15 inculcated with a desire to gain control of the Far  
16 East and thereafter the world?

17          A   It is as you say.

18          Q   Can you name some of these students, please?

19          A   That I cannot do right away; but, if desired,  
20 I can write down a number of names.

21               THE PRESIDENT: You had better put your  
22 questions with greater rapidity, Mr. McManus. We  
23 cannot sit here all day waiting for you.  
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1 MR. McMANUS: I have just a few more  
2 questions, if the Court please.

3 Q You stated, Mr. OUCHI, that you were a  
4 liberalist. Did your beliefs in liberalism advocate  
5 the overthrow of the Japanese government at any time?

6 A Do you mean me personally?

7 Q Yes.

8 A There has never been such a case.

9 Q Did you ever belong to any organization who  
10 advocated this theory?

11 A Absolutely not.

12 Q Do you claim that General ARAKI was in any  
13 way responsible for your incarceration in 1937?

14 A I think there was a mistake in the date.  
15 The year was 1938, and I don't think General ARAKI  
16 was in any way connected with it.

17 MR. McMANUS: I have no further questions.

18 THE PRESIDENT: Who do you represent? (Address-  
19 ing Japanese counsel at the microphone.)

20 MR. OKUYAMA: I am OKUYAMA, Hachiro, counsel  
21 for the defendant NAGANO, Osami. Regarding the matter  
22 of the writing in the affidavit of the present  
23 witness, I should like to make some points clear.  
24  
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## CROSS-EXAMINATION (Continued)

BY MR. OKUYAMA:

Q I should like to present my question to the witness. In the eighth line from the bottom of page 1 in the Japanese translation of the affidavit, the following statement is set forth: "Military training and lectures, beginning in the elementary schools, were a part of all schools in Japan. Such training was first instituted in the elementary, secondary and normal schools about 1886 and continued thereafter." Regarding the contents of such military training, were there any aspects which when viewed actually should not properly be called military training?

A This is a question of the meaning of the words. In general, the conception of war and the methods of war were spoken of but I cannot say that this was what was later, that is to say, in the last ten years, taught, is not the same as the militaristic teaching that was made in these last ten years.

Q At that time, in 1886, what was military training termed in Japan?

A Only physical drill.

Q Was it not called simply physical exercise or drill and military drill?

OUCHI

CROSS

1           A    Yes, that is so.

2           Q    Was it not the famous MORI, Yurei who intro-  
3           duced this subject as physical exercise in the  
4           schools?

5           A    I think it is so.

6           Q    Was not this man, MORI, Yurei, the most  
7           progressive liberal in Japan at the time, who  
8           advocated the use of English?

9           A    Exactly so.

10          Q    Was not the purpose of the Educational  
11          Minister, MORI, in adopting this system, to lift  
12          the people of Japan from the feudalism from which  
13          they had been liberated and to discipline them as  
14          social beings and to foster the spirit of cooperation  
15          and to train them as a new people?

16          A    It is exactly as you say. Minister MORI  
17          was a liberal, and he was also a patriot. As a  
18          patriot he believed that for the future of Japan  
19          it was necessary that Japanese armed forces should  
20          be strong. On one side he wanted to inculcate  
21          discipline into the Japanese people. On the other  
22          hand he wanted to convince them that it was -- a  
23          strong defense was necessary for the country.

24                MONITOR: Correction: Training was necessary  
25          for the national defense.

OUCHI

CROSS

1 Q May I ask again: The desire of MORI, Yurei,  
2 was to have such training for the purposes of national  
3 defense?

4 A It is so.

5 Q On the latter part of the first page of the  
6 Japanese version of the affidavit, the following  
7 lines are to be found: "Following the Japanese-  
8 Chinese War about 1898 military training was con-  
9 ducted in the schools by regular Army officers,  
10 which system prevailed until about the time of the  
11 first World War." Is not this a mistake?

12 A This is a mistake. It was not active but  
13 retired officers.

14 MONITOR: Correction: Reserve officer.

15 Q Not only reserve army officers, but in the  
16 country districts were not there also non-commissioned  
17 officers and plain soldiers?

18 A It is so.

19 Q On page 2, top of page 2 in the Japanese  
20 version, there are these words: "Beginning about  
21 1922 military training and teaching was again in-  
22 stituted in the schools." Is there not a mistake  
23 there? Was it not in 1925?

24 A The matter was taken up in 1923 and up to  
25 1925.

OUCHI

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1 MONITOR: Correction: And put in force from  
2 1925.

3 Q Next I wish to quote from beginning from  
4 the seventh line, second page of the Japanese text:  
5 "These subjects increasingly being given more con-  
6 sideration in the schools until 1927 when such  
7 training and teaching became compulsory in the  
8 secondary, normal and junior college grade schools."  
9 Will you tell me the reasons why it became compulsory?

10 A These reasons are not simple. On one hand,  
11 as the result of disarmament by the Washington  
12 Conference, many army officers had to be discharged,  
13 became over-abundant, and the army wished to be able  
14 to keep good material. On the other hand, as a  
15 reaction following disarmament, pacifist ideas  
16 grew, and it was feared that social unrest, social  
17 disorder, might come from this; and to counteract  
18 this tendency the strengthening of military ideas  
19 and military training was advocated.

20 Q Among the reasons why the Ministry of  
21 Education made military training compulsory, can  
22 you say that one of the purposes was domination of  
23 the world?

24 A In the beginning, when the Ministry of  
25 Education instituted military training, there was



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1 no such conscious intention. However, around 1939,  
2 when it became generally compulsory, and thereafter  
3 when the Pacific war, when the war in the Pacific  
4 was becoming probable, intensified, this idea became  
5 prevalent in education -- this idea was also woven  
6 into education.

7 Q In the witness' present words, he said to  
8 the effect "such thought." Could the witness  
9 clarify those words?

10 A I shall. Allow me to repeat what I said.  
11 I declared that the ideas expressed at that time were  
12 that war was productive, and, at the same time, that  
13 Japan's superior position in Asia must lead her --  
14 give her the duty or the responsibility to establish  
15 an Eastern Asia cooperative spirit.

16 MONITOR: Co-prosperity sphere.

17 Q Can you say that such ideas prevailed after  
18 1939 or before?

19 A It is impossible to put limits to the progress  
20 of ideas. It can only be said that these ideas  
21 developed greatly after 1939.

22 Q Then may I quote again from page 3 of the  
23 Japanese version of the affidavit: "If students  
24 did not attend the lectures, following their graduation  
25 when they were called into Army service they did not

OUCHI

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1 receive credit for any military training while in  
2 school. This was important for the reason students  
3 who participated in military training and lectures  
4 while in college had one year's service only to do  
5 in the Army on completion of their education, while  
6 those who had not attended military lectures and  
7 training were required to do their full time of two  
8 or three years' military service." I do not think  
9 it proper to use the words "pressure was used upon  
10 the students." What do you think of that?

11 A The students did not receive this pleasure,  
12 and in this sense I think you can say that psycho-  
13 logically that pressure was applied.

14 Q Is it not true that as a result of this  
15 system the attendance of students at these military  
16 training and lectures increased, not because of  
17 pressure but because attendance would shorten their  
18 years of military service?

19 A The students would certainly have been much  
20 more pleased if they could have conserved the  
21 privileges they had before; that is to say, not to  
22 attend such lectures and only have one year's  
23 service.

24 THE PRESIDENT: Before we recess, I will  
25 appeal to counsel for the accused to put shorter

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1 questions in cross-examination. Seeing they have had  
2 the examination in chief or the affidavit before them  
3 for some time, they should be in a position to do  
4 this.

5 We will recess now until thirty minutes after  
6 one.

7 (Whereupon, at 1200, an adjourn-  
8 ment was taken until 1330, after which the  
9 proceedings were resumed as follows:)

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1 The Tribunal met, pursuant to recess, at 1330.

2 MARSHAL OF THE COURT: The International  
3 Military Tribunal for the Far East is now resumed.

4 MR. OKUYAMA: May this counsel proceed?

5 THE PRESIDENT: He may.

6 - - -

7 H Y O E O U C H I, called as a witness on behalf  
8 of the prosecution, resumed the stand and  
9 testified as follows:

10 BY MR. OKUYAMA (Continued):

11 Q Can you say that the guidance given students  
12 by their military instructors at the outset achieved  
13 its purposes?

14 A The purpose may be said to have been reached  
15 formally; but, in fact, it had not been reached  
16 sufficiently. If the students did not accept this  
17 formally, the conditions under which they studied  
18 would have been unfavorable. So, they did accept  
19 it in the form, but in their minds and hearts they  
20 did not accept it.

21 THE MONITOR: Correction and addition:

22 Therefore, this education was not success-  
23 ful in that it did not turn the minds of the students  
24 to that end.

25 Q The affidavit says that the military



OUCHI

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1 instructor demanded of the students -- demanded .  
2 aggressive war of the students. Did the military  
3 instructor actually demand this of the students, to  
4 prepare for aggressive war?

5 MR. HAMMACK: Object, your Honor. The affi-  
6 davit does not so state. Counsel is in error.

7 MR. OKUYAMA: It is so written, and very  
8 clearly, in the Japanese translation of the affidavit.

9 MR. HAMMACK: We request, your Honor, that  
10 counsel read it in Japanese, because I am quite cer-  
11 tain that does not appear, that that exact language  
12 does not appear in the English translation of the  
13 affidavit.

14 MR. OKUYAMA: How is it written?

15 MR. WARREN: If the Tribunal please, may we  
16 refer counsel to Page 2, the end of the second para-  
17 graph, on the copy that was furnished to us.

18 MR. HAMMACK: Paragraph 2 in its entirety  
19 reads:

20 "Upon the insistence of the War Ministry,  
21 military training became a part of all universities,  
22 including private universities, such training becom-  
23 ing compulsory in 1938 when General ARAKI became  
24 Minister of Education."

25 MR. WARREN: Here is our copy.

OUCHI

CROSS

1 MR. HAMMACK: Paragraph 2 of the copies  
2 given to counsel:

3 "Military training and lectures were con-  
4 ducted in schools of all grades by regular Army  
5 officers, the officers conducting the courses making  
6 every effort by lectures, training and propaganda  
7 to inspire a militaristic and ultra-nationalistic  
8 spirit in the students. It was taught by the mili-  
9 tary instructors that the Japanese were a superior  
10 race, that war was productive, and it was Japan's  
11 destiny to rule the Far East, and thereafter the  
12 whole world, and that the progress of the nation re-  
13 quired the students to be prepared for aggressive  
14 wars in the future to accomplish these ends."

15 I suggest counsel reframe the question, if  
16 your Honor please, to comply with the language in the  
17 affidavit.

18 MR. FURNESS: Is the counsel using the  
19 language of the document supplied by the prosecution?  
20 He is thinking in Japanese, after all.

21 MR. HAMMACK: He is using the language sup-  
22 plied by the prosecution, if the Court please. I  
23 will personally withdraw the objection and let him  
24 ask it whichever way he wants.

25 THE PRESIDENT: Yes, that is the right course.

OUCHI

CROSS

1 Counsel for the accused may proceed.

2 MR. OKUYAMA: Then I should like to ask  
3 definitely, how should it be translated?

4 MR. HAMMACK: I suggest, may it please your  
5 Honor, the counsel ask the monitor what the interpre-  
6 tation of the translation is.

7 THE PRESIDENT: Well, I think we will take  
8 his answers on the questions.

9 MR. OKUYAMA: I shall reserve that matter and  
10 proceed.

11 Q Next, I should like to ask with reference  
12 to the Imperial **rescript** on Education granted in 1890  
13 or the 23d year of Meiji: In the affidavit it is  
14 said that the **rescript** itself, is in essence a docu-  
15 ment which inspires a militaristic and ultra-  
16 nationalistic spirit. Is this true?

17 A If the affidavit can be thus interpreted,  
18 I have expressed myself not quite correctly. What I  
19 wanted to say is that although the **rescript** was not  
20 written in that spirit, it has often been, on the  
21 contrary, used to mean something else.

22 THE MONITOR: Correction: It has often been  
23 abused or misused.

24 Q If so, then do you not think that the  
25 Imperial **rescript** as commonly interpreted and



OUCHI

CROSS

1 understood by us is that it lays down the precept of  
2 our family life, our social life, and our national  
3 life?

4 A It is so.

5 Q Then, may I say that the purport of the state-  
6 ment made by you is that the Imperial **rescript** to  
7 soldiers and sailors also was in essence of the same  
8 kind?

9 A That rescript also was meant to state that  
10 the military should not meddle in politics. I stated  
11 that in spite of this, by military training and the  
12 spreading of military ideas, this has been misunder-  
13 stood or a mistaken interpretation has been given to  
14 it, and the persons who taught this misunderstood it  
15 themselves.

16 THE MONITOR: Correction: The rescript did  
17 not mean to say that the military must not interfere.  
18 In the rescript it specifies that the military must  
19 not interfere in politics.

20 Q Lastly, with reference to the passage rela-  
21 tive to the defendant ARAKI between May, 1938 and  
22 August, 1939, may I ask whether you got this informa-  
23 tion directly or whether it was by hearsay?

24 A I have not heard that directly as a school  
25 authority, but I have only heard it indirectly.



OUCHI

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1 MR. OKUYAMA: That is all.

2 MR. LOGAN: If it please the Tribunal, I  
3 have a few questions I would like to ask the witness.

4 CROSS EXAMINATION (Continued)

5 BY MR. LOGAN:

6 Q Did you bring with you today any textbook,  
7 any copies of any lectures or documents of any kind  
8 which were used by the students -- which were used  
9 by the instructors in instructing the students as  
10 stated in your opinion that the Japanese were a  
11 superior race, that war was productive, and it was  
12 Japan's destiny to rule the Far East, and thereafter  
13 the whole world, and that the progress of the nation  
14 required the students to be prepared for aggressive  
15 wars in the future to accomplish these ends?

16 A Although I cannot give them here offhand,  
17 many magazines, newspapers, and pamphlets put out by  
18 the so-called "Rightists" at the time could be  
19 mentioned.

20 MR. LOGAN: If the Tribunal please, may I  
21 ask that that answer be stricken from the record and  
22 that the witness be directed to answer yes or no. It  
23 is a very simple question.

24 THE PRESIDENT: Better answer yes or no.

25 THE WITNESS: I should like to have that

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1 question repeated.

2 (Whereupon, the last question was  
3 read by the official court reporter.)

4 THE WITNESS: I shall now answer that question.  
5 I have not brought such books and papers with me here.  
6 But the question as previously put to me did not  
7 state that clearly. It appears that there was a  
8 mistake in interpretation.

9 Q Do you know of any official governmental  
10 textbook containing these opinions that you have set  
11 forth in your affidavit?

12 A Such **textbooks** have never been printed.

13 Q When did you graduate from the university?

14 A The second year of Taisho; that is, 1912.  
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1 Q Prior to 1912, according to your affidavit,  
2 military training was not intensified in the Japanese  
3 public schools, is that correct?

4 A Generally speaking, such training was not  
5 intensified during the recent ten some odd years.

6 THE MONITOR: Correction: Generally speaking,  
7 compared to the recent ten odd years, the training at  
8 that time was not as intense as the recent ten years --  
9 odd years.

10 Q Then you have no personal experience as a  
11 student up to 1912 --

12 A No.

13 MR. LOGAN: (To Interpreter) I wish to com-  
14 plete that. I had not finished my question.

15 Q You had no personal experience up to 1912  
16 that the military training lectures and teaching  
17 given to students in all grade schools and univer-  
18 sities had the effect of creating in the students  
19 a militaristic and ultra-nationalistic spirit, a  
20 belief that the Japanese as a race were superior to  
21 all other peoples, glorification of war; that wars  
22 were productive and necessary for the future wel-  
23 fare of Japan, and had the effect of preparing the  
24 students for future wars of aggression, is that  
25 correct?

OUCHI

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1 THE PRESIDENT: You can ask him whether  
2 what he has already sworn is correct or suggest rea-  
3 sons why you think it is not correct, if you think of  
4 any. This is a frightful waste of time. All after-  
5 noon I have never felt less informed about any ques-  
6 tion than I have about this, after listening to this  
7 this afternoon. It is getting us nowhere.

8 THE WITNESS: May I reply to that question.--  
9 but the question still has to be interpreted.

10 MR. LOGAN: May I hear his reply, your Honor?

11 THE PRESIDENT: Yes, I will take his reply.

12 What we want to know, of course, is what was  
13 taught in the Japanese schools at any relevant period,  
14 and what was the effect of what was taught. I think  
15 that eventually we will have to judge the effect by  
16 what happened and not by the opinions, even of pro-  
17 fessors.

18 MR. LOGAN: I will withdraw the question on  
19 that basis, then, your Honor.

20 THE PRESIDENT: If there is any difference  
21 of opinion as to what the meaning of the textbooks  
22 was, or what the meaning of the propaganda was, if  
23 there was such propaganda, we will have to judge by  
24 results. The most useful thing learned this after-  
25 noon was that there were not textbooks.



OUCHI

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1 CAPTAIN KLEIMAN: May it please the Tribunal,  
2 I wish to ask just two questions of a formal nature,  
3 of the witness.

4 THE PRESIDENT: Yes.

5 CROSS-EXAMINATION (Continued)

6 BY CAPTAIN KLEIMAN:

7 Q Do you recall the date when you signed this  
8 affidavit?

9 A I do not remember exactly, but it was about  
10 ten days ago.

11 Q Do you remember the name of the person who  
12 swore you when you signed this affidavit?

13 MR. HAMMACK: I object to that, may it please  
14 your Honor, on the ground that it is improper cross-  
15 examination, and is incompetent, irrelevant, and im-  
16 material. As to who swore him, the affidavit itself  
17 is the best evidence, in the original, as it has the  
18 name of the person.

19 CAPTAIN KLEIMAN: I withdraw the question,  
20 may it please your Honor.

21 THE PRESIDENT: The question is incompetent  
22 and will be overruled if it is not withdrawn.

23 CAPTAIN KLEIMAN: We can get it from the  
24 prosecution.

25 Q Do you think that the person who interpreted

OUCHI

CROSS

1 the Japanese for you was well acquainted with the  
2 Japanese language?

3 A Since I made my replies generally in English,  
4 I did not particularly notice how the Japanese  
5 translation was made.

6 Q Have you heard the translation given by the  
7 translation section of this Tribunal today?

8 A That I have not yet seen.

9 Q While the prosecutor was reading the affi-  
10 davit, did you listen to the Japanese translation  
11 which was given by the translation section of this  
12 Tribunal today?

13 A I heard it through the earphones.

14 Q Was the translation of this affidavit given  
15 by the translation section today the same as the  
16 translation which you heard on the day when you  
17 signed this affidavit?

18 A I do not know. I cannot say accurately  
19 whether or not they were the same.

20 Q In this affidavit you have stated that upon  
21 the insistence of the War Ministry military training  
22 became compulsory in 1938. In answer to questions  
23 by interrogators today you stated that military  
24 training became compulsory in 1939. Which is cor-  
25 rect?

OUCHI

CROSS

1           A It was the 8th year of Showa, or 1933.  
2 It was a mistake. The 14th year of Showa, or 1939,  
3 is correct.

4           Q Was there any law that made military train-  
5 ing compulsory in schools in the year 1939?

6           A Whatever the formalities, whether it be an  
7 Imperial ordinance, a departmental ordinance, or a  
8 directive issued by the Ministry of Education, I  
9 think there is some kind of regulation.

10          Q Are you positive that such was passed in  
11 the year 1939?

12          A You have just used the word "passed." By  
13 that you may mean passed by the Diet, but in Japan  
14 that procedure is not necessary. Such a rule may  
15 be made by other means.

16          THE MONITOR: I know that such a -- it  
17 must be that such a regulation was given to the  
18 schools in that era.

19          THE PRESIDENT: I cannot allow this to go  
20 on. This cross-examination is of no value at all.  
21 You see, if you trap him in a matter like that, it  
22 really would not affect his credibility, or the value  
23 of his testimony in any way.

24          CAPTAIN KLEIMAN: There is an apparent in-  
25 consistency, may it please your Honor, that affects

OUCHI

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1 me, by my defendant personally, and I wish to clear  
2 it up with him inasmuch as there is an inconsistency.

3 THE PRESIDENT: If you are going to have  
4 every "i" dotted and every "t" crossed in this case,  
5 we will never finish.

6 CAPTAIN KLEIMAN: All right, your Honor.

7 THE PRESIDENT: We have heard enough from  
8 you.

9 MR. WARREN: No further cross-examination,  
10 your Honor.

11 MR. HAMMACK: No redirect, your Honor.

12 (Whereupon, the witness was ex-  
13 cused.)

14 In regard to the next witness, Mr. Marshal,  
15 will you call Professor TAKIKAWA, and at this time,  
16 may it please the Court, the direct examination of  
17 this witness will be conducted by Mr. Robert Donihi  
18 of the prosecution staff, a lawyer of the Nashville,  
19 Tennessee Bar.

20 - - -

21 Y U K I T O K I T A K I K A W A , called as a  
22 witness on behalf of the prosecution, being  
23 first duly sworn, testified as follows:  
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TAKIKAWA

DIRECT

## DIRECT EXAMINATION

BY MR. DONIHI:

Q Will you state your name to the Tribunal, please?

A My name is TAKIKAWA, Yukitoki.

Q I hand you herewith a document and ask you if you recognize it?

A This is the document to which I have affixed my signature.

Q Was that document first translated from English into Japanese before you affixed your signature?

A It was translated.

Q And are the facts contained in that document true?

A They are all true.

MR. DONIHI: At this time, if the Tribunal please, the prosecution will introduce in evidence the affidavit of this witness.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 131, for identification.)

THE PRESIDENT: Admitted.

(Whereupon, prosecution's exhibit No. 131 was received in evidence.)

TAKIKAWA

DIRECT

1 MR. DONIHI: May I read the affidavit at this  
2 time?

3 THE PRESIDENT: Yes.

4 The Members of the Tribunal would like to have  
5 copies. Will you distribute the copies first?

6 MR. DONIHI: I beg your pardon.

7 (Whereupon, copies of the document  
8 above referred to were given to the Members  
9 of the Tribunal.)

10 MR. DONIHI: This document has been marked  
11 exhibit No. 131, may it please the Tribunal. At this  
12 time, if your Honor please, it might be well for the  
13 witness to be instructed, since he does not speak  
14 English, to listen to the Japanese version of the  
15 reading of the document on the headphones.

16 THE PRESIDENT: Are they switched on to the  
17 Japanese?

18 MARSHAL OF THE COURT: Yes, sir. All in  
19 order, sir.

20 MR. DONIHI: (Reading)  
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1 "INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST  
2 "THE UNITED STATES OF AMERICA, et al.)

3 - AGAINST - ) A F F I D A V I T  
4 ARAKI, SADA0, et al. )

5 "I, TAKIKAWA, Y., make oath and say as follows:

6 "I am presently Dean of Law at Kyota Univer-  
7 sity.

8 "I was educated in the schools of Japan  
9 beginning with the elementary schools and finishing  
10 with the university, receiving the degree of Doctor  
11 of Law. As a student in the Japanese schools and  
12 later as a professor I am familiar with the various  
13 subjects that were taught in Japanese schools from  
14 the elementary schools up to and including the  
15 universities. Military training, beginning in the  
16 elementary schools, was a part of the curriculum of  
17 all schools in Japan.

18 "Beginning about 1925 more attention was  
19 given to military lectures and training in Kyota  
20 University, there being on the staff teaching military  
21 subjects one colonel and three captains, these  
22 officers being from the War Ministry.

23 "Gradually the influence of these officers  
24 became more dominant in the schools and they  
25 increasingly had more to say in the manner in

TAKIKAWA

DIRECT

1     which the university should be operated. When they  
2     first came to the college they did not have a great  
3     deal of influence but gradually following the  
4     Manchurian Incident in 1931 and the China Incident  
5     in 1937 they gained more and more influence, with  
6     the result that the university eventually was com-  
7     pletely under the control of the military.

8             "I expressed opposition to the military  
9     program in this university, beginning about 1925,  
10    not being alone in this opposition other professors  
11    also being opposed to this program. At first the  
12    officers teaching military subjects did not oppose  
13    me openly or discourage my opposition to the military  
14    in the schools but working through the War Ministry  
15    difficulties were created for me.

16            "In 1931 or 1932 I wrote an article in  
17    opposition to the Manchurian Incident. In 1933 when  
18    Hitler came into power in Germany I wrote another  
19    article opposing Hitler. At that time, in 1933,  
20    the Japanese government was copying Hitler's methods.  
21    In the article where I criticized the Nazis before  
22    being published it was censored and greatly cut by  
23    the Home Ministry.

24            "In 1932 I wrote a law book in which book  
25    I urged that the Peace Preservation Law should not



TAKIKAWA

DIRECT

1 be invoked for the criminal prosecution of students  
2 for liberal thoughts and expressions. Because I  
3 had written this book and for my other transgressions,  
4 that is, my article in opposition to the Manchurian  
5 Incident and article in opposition to the Nazi form  
6 of government, I was discharged from the university  
7 in 1933.

8 "Following my retirement from the university  
9 I kept myself well acquainted with the various changes  
10 in the Japanese school system. In Japanese colleges  
11 they do not use many textbooks, but more and more  
12 military ideas and thoughts were incorporated into  
13 the lectures, however.

14 "I am familiar with the form of education  
15 that prevailed generally in the Japanese school  
16 system up to the present time and it was a very bad  
17 form of education. It completely omitted free  
18 thought and liberal ideas and was devoted to  
19 justifying Japanese aggressive warfare in Manchuria  
20 and China and was intended to teach the students that  
21 war was glorious, that war was necessary, that war  
22 was productive, that the future greatness and  
23 destiny of Japan was dependent upon aggressive  
24 warfare and had the effect of inculcating in the  
25 minds of the students a contempt for other races and

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DIRECT

1 peoples, a hatred for potential enemies and prepared  
2 them for future wars of aggression."

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4 Signed:

5 "TAKIKAWA, Y."

6 Sworn to before an officer whose name appears  
7 on the original.  
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TAKIKAWA

DIRECT

1 Q Dr. TAKIKAWA, you have heard the Japanese  
2 translation of the affidavit bearing your signature.  
3 Is that the same as the translation which was given  
4 to you at the time you signed the affidavit?

5 A It is the same except that I have noted this  
6 difference: In the English text I am given the  
7 title of Doctor. I am not so. My degree is that  
8 of Bachelor of Arts.

9 THE MONITOR: Of law.

10 Q Bachelor of Law. Dr. TAKIKAWA, are the  
11 statements contained in that affidavit, as read to  
12 you and as you heard over the translation system,  
13 true and correct?

14 A They are all facts.

15 MR. DONIHI: The witness may be cross-  
16 examined, your Honor.

17 CAPTAIN KLEIMAN: May it please the Tribunal,  
18 I at this time --

19 THE PRESIDENT: Colonel Warren.

20 MR. WARREN: If the Tribunal please, may we  
21 inquire of the prosecution if that witness has been  
22 offered as an expert witness ?

23 MR. DONIHI: Yes, may it please the Tribunal,  
24 and in addition to that he has stated he has given  
25 information relative to his own experiences with the

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1 school system in being discharged.

2 MR. WARREN: The reason for the question,  
3 your Honor, was --

4 THE WITNESS: What do you mean by "expert"?

5 MR. WARREN: I suggest to the witness that  
6 he has not been asked any questions as yet.

7 The reason for the question was, if the Tri-  
8 bunal please, the entire thing was a conclusion; but,  
9 if offered as an expert, I take it that the document  
10 would be considered by the Tribunal.

11 Shall I proceed?  
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1 THE PRESIDENT: The document has been  
2 received and will be considered by the Tribunal.  
3 We invite you now, Colonel Warren, to cross-examine  
4 on the document and on the evidence given from the  
5 box, and we ask you not to waste our time with these  
6 sheer technicalities.

7 MR. WARREN: I am sorry. I had not con-  
8 sidered it as such.

9 THE PRESIDENT: I have reminded you before  
10 that this is not a national court in a Serbonian bog  
11 of technicalities. We are here as a military tribunal  
12 to see that justice is done in a speedy trial, that  
13 the defendants have their case fairly heard. All  
14 these technicalities that are being raised here are  
15 utterly unnecessary for a fair hearing.

16 MR. WARREN: I have raised no objection, sir.

17 CROSS-EXAMINATION

18 BY MR. WARREN:

19 Q Mr. TAKIKAWA, this statement which you have  
20 heard read, did you dictate that statement yourself?

21 A Yes.

22 Q To whom did you dictate it?

23 A Mr. Donih1.

24 Q Now, you state that beginning about 1925,  
25 more attention was given to military lectures and

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CROSS

1 training in Kyoto University, there being on the  
2 staff teaching military subjects one colonel and  
3 three captains. Will you explain to the Tribunal  
4 what you meant by that statement?

5       A     Military training was first introduced into  
6 the University in 1925. At that time the War Office  
7 assigned superior officers to the University as  
8 military instructors. At first military training  
9 was limited only to lectures on such subjects as the  
10 History of War and Tactics. Training involving the  
11 use of arms or drills were not carried on. However,  
12 with the passage of time, drill, military training as  
13 such, was introduced; and such training cut in on the  
14 time of the regular school course. At first the mil-  
15 itary instructors asked the President of the University  
16 to provide special hours for such training. However,  
17 it so developed that military training took up the  
18 hours of the regular course at the University and  
19 such training was given without any permission --  
20 previous permission from the President of the Univer-  
21 sity. In such a manner a militaristic influence  
22 infiltrated into the University.

23       MR. WARREN: Might I suggest, your Honor,  
24 that the witness is not answering the question but is  
25 giving us a dissertation on matters that may or may

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not be gone into at a later time.

1 THE PRESIDENT: Well, the channel between  
2 you and him is the Japanese language, and it may be  
3 the translations are not just as you say --

4 MR. WARREN: Perhaps.

5 THE PRESIDENT: It is about the same. I  
6 will ask him to listen carefully to the question and  
7 answer it.  
8

9 Q What I meant, Dr. TAKIKAWA, was, more  
10 specifically, when you stated that more attention  
11 was given to military lectures and training in Kyoto  
12 University -- what I meant, by way of explanation,  
13 had there been military training in the Kyoto  
14 University prior to that time, and in what manner  
15 was more attention given to it?

16 A Military training was introduced into the  
17 University for the first time in April, 1925.

18 Q Now, by your statement, "Gradually the in-  
19 fluence of these officers became more dominant in the  
20 schools, and they increasingly had more to say about  
21 the manner in which the University should be oper-  
22 ated," will you tell the Tribunal the hold, if any,  
23 that these men had on the University, the full extent  
24 of their authority, and how far they could go with  
25 reference to the control of the University at the

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1 time they took over.

2 A The school authority rests with the Pres-  
3 ident; but since the introduction of military education,  
4 the demand of the military members with regard to in-  
5 terference in the administration of the school became  
6 steadily stronger.

7 Q In what manner did it become steadily stronger?

8 A At first the hours of attendance to these  
9 military training classes were not necessarily com-  
10 pulsory.

11 THE MONITOR: Correction: "Attendance itself  
12 was optional."

13 A (Continuing) But gradually the interference  
14 of the military instructor and other officers became  
15 stronger until it reached the point where they in-  
16 sisted that students who do not attend these classes  
17 will not be permitted to graduate from the University.  
18 For instance, it created the curious situation wherein  
19 those who wore long hair were not permitted to attend  
20 military classes, and creating a situation where those  
21 who wore long hair were therefore not attending  
22 classes and were therefore not permitted to graduate.

23 Q What do you mean by "persons who wore long  
24 hair?" Did that mean that those persons belonged to  
25 some society that was designed to overthrow the existing



government?

1           A    I don't mean that at all; absolutely not.  
2           In Japan the soldiers are supposed to crop their  
3           hair short, and it was considered that students who  
4           wore long hair were not acting in a soldierly manner.  
5

6           Q    You left the University by discharge in  
7           1933, is that correct?

8           A    I was suspended from my position on May 26,  
9           1933, and then on July 11 I submitted my resignation  
10          and thereby resigned.

11          Q    You state in your affidavit which you dic-  
12          tated that "I was discharged from the University in  
13          1933." Is that statement correct?

14          A    Suspension; in other words, dismissal.

15          Q    Now, I will ask you if that suspension did  
16          not come about as a result of your attack and refusal  
17          to cooperate with the new members of the faculty who  
18          were military men?

19          A    On the surface, no, but I attacked the system  
20          when it was introduced in 1924. Since then, that is,  
21          in 1925 when military training was first introduced  
22          into the University, there was great opposition within  
23          the school; but it was created after an agreement had  
24          been made that the course will not be given for more  
25          than three years.

1 THE PRESIDENT: We will recess now for  
2 fifteen minutes.

3 (Whereupon, at 1445, a recess  
4 was taken until 1500, after which the  
5 proceedings were resumed as follows,  
6 English to Japanese and Japanese to  
7 English interpretation being made by  
8 MORI, Tomio and SHIMANOUCHI, Toshiro,  
9 Hidekazu Hayashi acting as Monitor:)

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1 MARSHAL OF THE COURT: The Tribunal is now  
2 resumed.

3 THE PRESIDENT: Major Warren.

4 MR. WARREN: If the Tribunal please, during  
5 the recess I have again read this affidavit, and I do  
6 not believe that we can develop a single additional  
7 fact of benefit to the Tribunal. Not caring to  
8 indulge in impeachment examination only, I beg the  
9 Tribunal's permission to cease cross-examination at  
10 this time.

11 DR. KIYOSE: I should like to put a few  
12 questions as simply as possible.

13 CROSS-EXAMINATION (Continued)

14 BY DR. KIYOSE:

15 Q What are you teaching at Kyoto University?

16 A Criminal law, criminal case law, and also  
17 history of law, history of European law, occidental  
18 law.

19 Q During your years as a teacher, has your  
20 specialty been criminal law and criminal case law?

21 A I have taught both those but especially  
22 criminal law.

23 Q In that case, is it that the educational  
24 system of Japan, education itself, the subject of  
25 education, outside of your specialty?

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1 A It is not my specialty.

2 Q When did you graduate from the middle school?

3 A In the forty-second year of Meiji, 1909.

4 Q Then may I take it that education after the  
5 year 1942 -- before 1942 -- is outside of your special  
6 field of study. Then I understand that you did not  
7 specially study education since your graduation from  
8 the middle school in the forty-second year of Meiji  
9 or 1909?

10 A I haven't studied it as a specialty.

11 Q When did you graduate from the higher school,  
12 Koto Gakko?

13 A In 1912.

14 Q Then, may I take it that with respect to  
15 the higher school, your knowledge is that which you  
16 acquired after graduating from the Koto Gakko or  
17 higher school?

18 A It is so.

19 Q Then referring to the affidavit, it is said  
20 that you say that you wrote an article in opposition  
21 to the Manchurian Incident. Then, may I ask the  
22 witness that, although you made a special study of  
23 criminal law, the first point regarding you is the  
24 book called Keiho Tokuhon or Criminal Law Manual,  
25 which you wrote, and your criticism of court procedure



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1 or trials while you were teaching at the Chuwo  
2 University which developed into some affair between  
3 you and the then Minister of Education, HATOYAMA,  
4 Ichiro?

5 A It is generally true, what the defense  
6 counsel has now stated, in its general lines  
7 correct, but there is a great difference between  
8 what transpired officially and what was behind those  
9 things.

10 Q Whatever the circumstances, you were dis-  
11 missed in accordance with the law for the dismissal  
12 of public officials for your book on Criminal Law  
13 Manual and your lecture at Chuwo University criticiz-  
14 ing Japanese court procedure. Do you not think it  
15 is now improper to make a declaration otherwise?

16 A I cannot accept the causes officially  
17 published by the Minister of Education concerning  
18 my resignation, nor can the public accept them. The  
19 real reason is other. I am not ashamed of having  
20 taken an oath, declaring under oath, declaring  
21 according to my conscience that these other -- also  
22 these other causes.

23 Q May I quote from the last part of the  
24 affidavit: "Students that war was glorious, that  
25 war was necessary, that war was productive, that the

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CROSS

1 future greatness and destiny of Japan was dependent  
2 upon aggressive warfare and had the effect of  
3 inculcating in the minds of the students a contempt  
4 for other races and peoples." When you speak with  
5 reference to future wars of aggression at the end  
6 of this paragraph, what do you mean?

7 A Aggressive wars in the future.

8 MONITOR: I would like to hear that.

9 A It is the war to establish the Greater  
10 East Asia Co-prosperity Sphere and become its leader.

11 Q Do you mean, then, by saying that the  
12 authorities were anticipating the war as an aggressive  
13 war before that war began?

14 A I believe, I am convinced that from the  
15 Manchurian affair all the other affairs are aggressive  
16 wars.

17 MONITOR: Correction: Incident.

18 Q Then may I take it that the authorities  
19 instructed their students, before the outbreak of  
20 the Manchurian Incident or the Pacific war, that  
21 this was a war of aggression?

22 A I do not understand your question very well.

23 Q Then I will put it in another way. The  
24 Manchurian Incident and the War of Greater East Asia  
25 are, in your opinion, wars of aggression, but it is

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CROSS

1 not a war of aggression according to the conception  
2 of the authorities.

3 MR. DONIHI: May it please the Tribunal, I  
4 understand that to be a statement of counsel rather  
5 than the answer of the witness, speaking of wars of  
6 aggression or wars not being wars of aggression in  
7 the eyes of the authorities, and I do not feel that  
8 the examination of the witness is proper or contained  
9 within the bounds of the affidavit, the direct.

10 THE PRESIDENT: I am reluctant to prevent  
11 a Japanese counsel from pursuing his cross-examination  
12 unless it is flagrantly apart altogether from the  
13 subject matter to which he is limited. I cannot  
14 say there has been anything flagrant here. I cannot  
15 say the cross-examination is very helpful either,  
16 but that applies to all the cross-examination that  
17 I have heard today.

18 Q I divided my question into two parts.  
19 Perhaps that is the cause of the misunderstanding.  
20 You call this an aggressive war after the war broke  
21 out. Can it be considered that the authorities  
22 considered it to be an aggressive war before it  
23 broke out in anticipation of such war?

24 A What the authorities thought that the war  
25 would be is of no concern to me. The facts show

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1 it was an aggressive war, and we have to go by the  
2 facts.

3 DR. KIYOSE: That is all.

4 MR. DONIHI: Is that all of the cross-  
5 examination, your Honor?

6 THE PRESIDENT: Is there any re-examination?

7 MR. DONIHI: There will be no redirect  
8 examination of this witness.

9 (Whereupon the witness was excused)

10 MR. DONIHI: May it please the Tribunal,  
11 the prosecution will next, in order to prove this  
12 phase of our case, introduce into evidence Imperial  
13 Ordinance No. 135, described as "International Prose-  
14 cution Section Document 7106."

15 (Whereupon, the document above  
16 referred to was marked prosecution's  
17 exhibit No. 132 for identification.)

18 THE PRESIDENT: Admitted on the same terms.

19 "Whereupon, prosecution's exhibit  
20 No. 132 was received in evidence.)

21 MR. DONIHI: (Reading): "We sanction  
22 hereby the ordinance concerning the stationing of  
23 Military active officers at schools and order the  
24 same to be promulgated.  
25



1 "Ordinance Concerning the Stationing of Offi-  
2 cers of Active Status at Schools.

3 "Article 1. In order to give military train-  
4 ing to the male students or pupils of either govern-  
5 ment or public, normal schools, middle schools, in-  
6 dustrial schools, higher schools, preparatory courses  
7 of colleges, regular courses of colleges, technical  
8 schools, higher normal schools, temporary teachers'  
9 training institutions, training institutes of  
10 teachers for industrial schools, or training in-  
11 stitutes of teachers for young men's schools, officers  
12 of active status shall be stationed at these above  
13 mentioned schools. However, this shall not be appli-  
14 cable during war, incident, or under other inevitable  
15 circumstances.

16 "Dispatching of officers according to the  
17 regulation of the preceding paragraph will be ef-  
18 fected by a conference between the Minister of War  
19 and Minister of Education. Officers ordered to sta-  
20 tion at any school shall obey the order and super-  
21 vision of the head of the schools concerned with res-  
22 spect to military training.

23 "Article 2. In order to give military train-  
24 ing to the male students or pupils of private middle  
25 schools, industrial schools, higher schools,

1 preparatory courses of colleges, regular courses  
2 of colleges, or technical schools, or private schools  
3 recognized by the provision of Item 1 of Article 100  
4 of the Regulations relative to the application of  
5 the Military Service Law, Active Status Officers may  
6 be stationed at any school above-mentioned on request  
7 from the school concerned.

8 "The provisions of the preceding paragraph  
9 shall be applied with necessary changes in case  
10 officers are stationed at schools according to the  
11 provision of the preceding article.

12 "Article 3. The stationing of officers at  
13 schools in accordance with this ordinance may be  
14 stopped by the War Minister and the Education Minis-  
15 ter may break off in case there is a special reason.

16 "Article 4. The War Minister may order Active  
17 Status Officers to inspect the actual training condi-  
18 tions at schools where officers are stationed accord-  
19 ing to this ordinance.

20 "Article 5." --  
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1 THE PRESIDENT: Could you paraphrase that  
2 document instead of reading it through? We can read  
3 it. Give us a paraphrase if you can, Mr. Donihi, in  
4 the future. I know you are not prepared to do it now,  
5 but if you have any more documents like that, para-  
6 phrase them.

7 MR. DONIHI: If your Honor please, if I para-  
8 phrase it, then we will not have the simultaneous  
9 translation.

10 THE PRESIDENT: You will have to speak  
11 closer to the microphone. You have my fault of talk-  
12 ing away from it.

13 MR. DONIHI: I might suggest this, may it  
14 please the Court: Some of these are rather lengthy;  
15 and possibly, this evening after Court adjourns, the  
16 more lengthy documents can be arranged for simulta-  
17 neous translation.

18 THE PRESIDENT: The twenty-eight affidavits  
19 as they come, can you cut them down in some way?

20 MR. DONIHI: I think we possibly can. In  
21 most instances we have taken excerpts--

22 THE PRESIDENT: I seriously suggest you con-  
23 sider whether to tender all those affidavits and  
24 witnesses.

25 MR. DONIHI: Your Honor, we have cut down on

1 our witnesses. In fact, there are four witnesses  
2 that we had available we are not going to offer in  
3 evidence. We knew that the Court was possibly becom-  
4 ing worn listening to the evidence which is of a  
5 cumulative nature.

6 THE PRESIDENT: You appreciate what is neces-  
7 sary, of course; what was taught in the Japanese  
8 schools, and so forth, preferably documents. Oral  
9 evidence is necessary, perhaps; I do not say that it  
10 is not. It may be very necessary. But what we want  
11 mainly would be literature, if we can get it. We are  
12 told there are no textbooks.

13 MR. DONIHI: Yes, your Honor.

14 THE PRESIDENT: You see, if we get correct  
15 translations, we can be trusted to form our own con-  
16 clusions in the light of what happened. You do not  
17 need a mass of material about this.

18 You must remember that we are not eleven  
19 jurors. We are eleven men who can claim to have some  
20 experience in weighing evidence and in valuing evi-  
21 dence, and we are not going to be assisted by the  
22 raising of technicalities.

23 Our position is not an easy one. We have to  
24 avoid the strict rules of evidence and the strict  
25 methods of procedure on the one hand, and Rafferty's



1 rules on the other. We have to steer between the  
2 two, and it is not easy, and we look for the assist-  
3 ance of counsel in this difficult task.

4 MR. JUSTICE MANSFIELD: If the Tribunal  
5 pleases, the prosecution has adopted the method of  
6 obtaining the best evidence possible because it  
7 realizes that the onus is upon it, as the President  
8 has said, to prove this case beyond a reasonable  
9 doubt.

10 We have a number of witnesses to prove a  
11 cumulative effect of the education and the propaganda.  
12 In the light of what has happened in the last two  
13 days, we have been able to cut down on some of that.

14 We have a number of documents which are about  
15 to be put in; and, instead of reading the documents as  
16 they stand, it may be possible to put them in with  
17 just a brief description of the document. That will  
18 not give the defendants--the accused--the information  
19 as to what is contained in them if they are not read  
20 and if the parts upon which we rely are not read.  
21 However, the prosecution will be perfectly prepared  
22 to accept the suggestion of the Tribunal and merely  
23 read a short description of each document.

24 THE PRESIDENT: We are determined not to  
25 infringe on the substantial rights of the accused.

1 We respect them. But we do wish to avoid a waste of  
2 time on unnecessary matters.

3 MR. JUSTICE MANSFIELD: I would point out to  
4 the Tribunal--

5 THE PRESIDENT: May I continue, Mr. Justice  
6 Mansfield?

7 MR. JUSTICE MANSFIELD: Yes.

8 THE PRESIDENT: You refer to the need to read  
9 these documents in Court so the accused would know  
10 what they have to meet. But I have in mind there are  
11 rules under which you must give to them, twenty-four  
12 hours in advance, copies of any documents you intend  
13 to read, and translations thereof of the parts you  
14 intend to read.

15 MR. JUSTICE MANSFIELD: That has already been  
16 done. The object of the prosecution was, if possible,  
17 to point out particular parts of these documents upon  
18 which we relied more particularly than upon other  
19 parts. And I would also mention, with great respect,  
20 that the prosecution has taken a great deal of time  
21 in considering the mass of information at its disposal  
22 and has endeavored, as far as possible, to sift what  
23 it has and to put forth only that which is necessary  
24 to present the case as we deem it in its complete  
25 form against each accused.

1 THE PRESIDENT: We appreciate that.

2 DR. KIYOSE: May I, with the permission of  
3 the Court, say that although the Japanese translation  
4 of the documents has been presented to the Japanese  
5 counsel for the defense, that no documents whatsoever  
6 have been delivered to the defendants themselves.

7 THE PRESIDENT: That is unnecessary. The  
8 counsel represents the accused.

9 MR. LOGAN: If it please the Tribunal, I am  
10 taking the liberty of speaking for the defendants,  
11 but I think it would be the consensus that we would  
12 endeavor to assist the Court in accepting the offer  
13 made by the prosecution to the effect that they advise  
14 us which articles of any document they intend to rely  
15 upon. And I think, if my recollection is correct,  
16 that there is some provision to that effect in the  
17 rules.

18 THE PRESIDENT: There are not many rules,  
19 but that is in the rules.

20 MR. LOGAN: Yes. And the documents we have  
21 received have not been marked to indicate which por-  
22 tions the prosecution intends to rely upon. But if  
23 they will let us know the specific articles on which  
24 they intend to rely, I think it would be in accordance  
25 with the wishes of the accused, or at least they would

1 raise no objections; and I prefer reading those docu-  
2 ments in Court.

3 I believe we would prefer that method in  
4 preference to a summary of the documents.

5 MR. JUSTICE MANSFIELD: If the Tribunal  
6 pleases, these documents which we are now about to  
7 produce, we rely upon them in toto. Every provision  
8 is, we consider, a necessary one to refer to at some  
9 time of the case. Some provisions are more important  
10 than others.

11 MR. LOGAN: Do I understand that the prose-  
12 cution is relying in toto on the one hundred some odd  
13 documents already in evidence and which have not been  
14 read to this Tribunal?

15 MR. JUSTICE MANSFIELD: The documents which  
16 have already been produced, some of them have already  
17 been referred to in evidence, and those have already  
18 been relied upon. In the address of Brigadier Nolan  
19 some were referred to. Other documents which have  
20 not yet been referred to will be referred to later  
21 and will be relied upon in toto. In cases where ex-  
22 tracts only from documents are being relied upon, the  
23 extracts only have been tendered in evidence.

24 DR. KIYOSE: Mr. President, I understand per-  
25 fectly the rules of the Court. Whether or not these



1 documents are entirely delivered to the defendant or  
2 not, I can say that, even though summaries are made  
3 and great restrictions are made on documents to be  
4 read, I still think the proceedings can continue.

5 THE PRESIDENT: They are certainly going to  
6 continue. Because we are convinced of that, we want  
7 the full cooperation of counsel on both sides.

8 We are here to do justice to the defendants,  
9 and we feel that, being in that position, we are en-  
10 titled to the full cooperation of counsel on both  
11 sides.

12 MR. DONIHI: With the Tribunal's indulgence,  
13 I shall describe the document briefly and introduce it  
14 for an exhibit in evidence.

15 THE PRESIDENT: Yes.

16 Well, if you think that it is necessary to  
17 read the whole document, you exercise your own judg-  
18 ment in the matter.

19 MR. DONIHI: No, your Honor, it will not be  
20 necessary. At a later time we may refer to such por-  
21 tions as may become pertinent.

22 MR. FURNESS: Are the documents just referred  
23 to considered as an exhibit in evidence? I object,  
24 for SHIGEMITSU, to any characterization of the docu-  
25 ments by the prosecution. It seems to me equivalent

1 to testimony as to its effect.

2 THE PRESIDENT: Oh, that objection is trivial,  
3 and it is overruled.

4 MR. DONIHI: May it please the Tribunal,  
5 prosecution will next in order of proof on this phase  
6 of the case present in evidence document No. 7107.

7 DEPUTY CLERK OF THE COURT: Marked for iden-  
8 tification, exhibit No. 133.

9 (Whereupon, the document above  
10 referred to was marked prosecution's  
11 exhibit No. 133 for identification.)

12 THE PRESIDENT: Admitted on the usual terms.

13 (Whereupon, prosecution's exhibit  
14 No. 133 was received in evidence.)

15 MR. DONIHI: This document consists of  
16 "Regulations of the Youngmen's Training Institute  
17 (Promulgated by Education Ministry Ordinance of  
18 April 20, 1926.)"

19 Prosecution will next in order introduce  
20 document No. 7109.

21 DEPUTY CLERK OF THE COURT: Marked for  
22 identification exhibit No. 134.

23 (Whereupon, the document above  
24 referred to was marked prosecution's exhibit  
25 No. 134 for identification.)

1 THE PRESIDENT: Admitted on the usual terms.  
2 (Whereupon, prosecution's exhibit  
3 No. 134 was received in evidence.)

4 MR. DONIHI: This being Imperial Ordinance  
5 No. 249, and is the Ordinance of the Youth School  
6 Military Drilling Course, dated August 10, 1935.

7 The prosecution will next in order intro-  
8 duce prosecution document No. 7110.

9 DEPUTY CLERK OF THE COURT: Marked for  
10 identification exhibit No. 135.

11 (Whereupon, the document above  
12 referred to was marked prosecution's  
13 exhibit No. 135 for identification.)

14 THE PRESIDENT: Admitted on the usual terms.  
15 (Whereupon, prosecution's exhibit  
16 No. 135 was received in evidence.)

17 MR. DONIHI: This document of 30 November  
18 1938 is an amendment of clauses in the Ordinance  
19 concerning the inspection of military training at  
20 the young men's schools.

21 The prosecution will next in order intro-  
22 duce document 7111.

23 DEPUTY CLERK OF THE COURT: Marked for  
24 identification exhibit No. 136.

25 (Whereupon, the document above

1 referred to was marked prosecution's  
2 exhibit No. 136 for identification.)

3 THE PRESIDENT: Admitted on the usual terms.

4 (Whereupon, prosecution's exhibit  
5 No. 136 was received in evidence.)

6 MR. DONIHI: This document being "Army  
7 Ministry Ordinance No. 8, Inspection Regulations for  
8 Military Training at Youth Schools" dated 13 August  
9 1935.

10 The prosecution will next in order intro-  
11 duce document 7112.

12 DEPUTY CLERK OF THE COURT: Marked for  
13 identification exhibit No. 137.

14 (Whereupon, the document above  
15 referred to was marked prosecution's  
16 exhibit No. 137 for identification.)

17 THE PRESIDENT: Admitted on the usual terms.

18 (Whereupon, prosecution's exhibit  
19 No. 137 was received in evidence.)

20 MR. DONIHI: This being "War Ministry  
21 Ordinance No. 10," which is a revision of the regu-  
22 lations regarding inspection of military training  
23 courses in the youth schools, dated 12 April 1940.

24 The prosecution will next in order intro-  
25 duce prosecution document 7113.



1           DEPUTY CLERK OF THE COURT: Marked for  
2 identification exhibit No. 138.

3           (Whereupon, the document above  
4 referred to was marked prosecution's exhibit  
5 No. 138 for identification.)

6           THE PRESIDENT: Admitted on the usual  
7 terms.

8           (Whereupon, prosecution's exhibit  
9 No. 138 was received in evidence.)

10          MR. DONIHI: This exhibit is an extract  
11 from pages 516-517, in the Existing Law and Ordin-  
12 ance of the Educational Ministry, June 29, 1938,  
13 entitled "For the Cultivation and Enlightenment of  
14 Students and Pupils Through the Faculty Members of  
15 the Schools Concerned in View of the Present Situa-  
16 tion."

17          Prosecution will next in order introduce  
18 prosecution document 7114.

19          DEPUTY CLERK OF THE COURT: Marked for  
20 identification exhibit No. 139.

21          (Whereupon, the document above  
22 referred to was marked prosecution's ex-  
23 hibit No. 139 for identification.)

24          THE PRESIDENT: Admitted on the usual terms.

25          (Whereupon, prosecution's exhibit  
~~No. 139 was received in evidence.)~~

1 MR. DONIHI: This being "The Imperial  
2 Rescript on Education" dated the 30th day of the  
3 23d year of Meiji, that being 1897.

4 The prosecution has no further documents  
5 to introduce at this time.

6 Mr. President, would the Tribunal prefer to  
7 hear more evidence this afternoon at this late hour?

8 THE PRESIDENT: No, this is a convenient  
9 break.

10 We will recess now until thirty minutes  
11 past nine tomorrow morning.

12 (Whereupon, at 1555, an adjournment  
13 was taken until Thursday, 20 June 1946, at  
14 0930.)

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